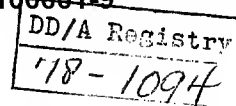


OGC 78-1425

8 March 1978



MEMORANDUM FOR: Associate Director of Personnel

OGC Has Reviewed

THROUGH:

████████████████████
Chief, Contract Personnel Division

FROM:

████████████████████
Assistant General Counsel

SUBJECT:

Status of Agency Advisory Panel Members
as Consultants

1. This is in response to your note and a memorandum from the Chief, Contract Personnel Division dated 8 February 1978 which ask whether or not members of Agency advisory panels should be formally engaged as consultants and be processed accordingly under the provisions of ██████████. It is my understanding that individuals who serve on these panels (with or without compensation) are private citizens whose detailed expertise in a given scientific or technological area provide the Agency on an intermittent basis with a valuable and otherwise unavailable resource to facilitate the analysis of intelligence data. The Chief, CPD, has advised that "[c]ertain of the members of the panels have a formal consultant relationship with the Agency as contained in ██████████. Other members may be engaged on a one time-only basis or, on the other hand, may have a continuing relationship on a panel."

2.. An example cited in the latter category is ██████████ a member of the DCI's Scientific and Intelligence Committee Advisory Panel, who is to be paid a fee for each day's service equivalent to the top step of a GS-15 (currently \$180.88) and travel expenses. Evidently, unlike CIA consultants, persons in ██████████ category are not currently retained under contract and are not required to formally file with the Agency Statements of Employment and Financial Interest (SEFI) so that their proposed use (as set forth in the requisite "certification of using official") can be reviewed by this Office for actual or apparent conflicts of interest. Instead, under existing procedures, the entity seeking the panel member apparently submits a "memorandum in lieu of contract" merely outlining the terms and duration of the proposed relationship for approval by the Special Contracting Officer, Office of Personnel.

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STATINTL

3. Based on the information before us, it must be concluded that panel members such as [REDACTED] are "special Government employees" for conflicts of interest purposes as that term is defined at 18 U.S.C. 202 (i.e., an individual who is "retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days, temporary duties either on a full-time or intermittent basis....") As you know, under law and executive order, there are responsibilities imposed on both a "special Government employee" and the Federal agency retaining his or her services to insure that such an individual is not placed in a position of having an actual or apparent conflict of interest between the individual's Government activities and private pursuits. In acknowledgement of these requirements governing "special Government employees", [REDACTED] imposes detailed and formal procedures as outlined in the previous paragraph for the processing and clearance of all CIA consultants from a conflict of interest standpoint.

STATINTL

STATINTL

4. Accordingly, in light of their status as "special Government employees," we see no reason at the present time why Agency panel members such as [REDACTED] can and should be considered and treated any differently from other CIA consultants. This conclusion appears to be buttressed by the fact that, according to [REDACTED] memorandum, at least some of the individuals currently serving on Agency advisory panels are already being retained under a formal consultant arrangement with CIA. We do believe, therefore, that henceforth all members of Agency advisory panels should be uniformly processed in accordance with standards and procedures set forth in [REDACTED].

STATINTL

STATINTL



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8 February 1978

MEMORANDUM FOR: Chief, Operations and Management Law Division, OGC

ATTENTION :

STATINTL

FROM :

Chief, Contract Personnel Division

SUBJECT : Panel Members

1. As you are aware, the Agency, in addition to its "consultants" engaged under a formal contract, has in the past and currently has certain advisory panels. Certain of the members of the panels have a formal consultant relationship with the Agency as contained in [REDACTED] Other members may be engaged under a Memorandum of Oral Commitment (MOC) on a one-time only basis or, on the other hand, may have a continuing membership in the panel. A latter case in point is that of [REDACTED] a member of the DCI's Scientific and Intelligence Committee Advisory Panel. Attachment A is a copy of the memorandum concerning his utilization submitted by the Executive Secretary of that committee. (I have verified with the Office of Security that [REDACTED] holds an Agency TS clearance).

2. The matter of panel members as it relates to the Nuclear Intelligence Panel was addressed by [REDACTED] in OGC Memorandum 75-4776, dated 23 December 1975 (attachment B). Other historical background on the use of panel members is contained in attachment C.

3. For future guidance, I would appreciate your views on the following questions:

a. Should panel members be formally engaged as consultants and be processed accordingly under the provisions of [REDACTED]

b. If an individual can be used as a panel member without formal consultant status, is there any objection to the Special Contracting Officer's approval of their use by the mechanism of an MOC? Specifically in this regard, could you comment on the use of [REDACTED] as outlined in attachment A? Is each panel member required to submit a financial statement for clearance by OGC for conflict of interest? (See attachment D).

STATINTL

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Attachments:

A through D as stated

☒ UNCLASSIFIED

☐ INTERNAL
ONLY

☐ CONFIDENTIAL

☐ SECRET

Approved For Release 2001/09/01 : CIA-RDP81-00142R000400100001-9

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

STATINTL

DD/A Registry

File Personnel-4

FROM: [REDACTED]
Chief, Contract Personnel Division
5E-65

EXTENSION

NO.

DATE

7841

13 March 1978

TO: (Officer designation, room number, and building)

DATE

RECEIVED

FORWARDED

OFFICER'S
INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1. DD/Pers 14 MAR 1978

2.

3. D/Pers 14 MAR 1978

4. EO/DDA 3/15

ADDA 16 MAR 1978

5. DDA 21 MAR 1978

6.

CMO

7. John

8. Tom

9. Pat

10.

11. Registry

12.

13.

14.

15.

FYI. A copy of the attached OGC opinion has been sent to each directorate for their future guidance.

I think this is a fair finding on this issue. Often, people providing assistance are called different things & are retained under different kinds of contracts or commitments.

I don't know where

this should be filed - do we have a consultant file?

STATINTL